

AN ORDINANCE TO AMEND THE CITY CODE REGARDING REGULATION OF TOW TRUCK OPERATORS

Whereas, G.S. 160A-174 authorizes a city to enact ordinances that protect the health, safety and welfare of its citizens;

Whereas, G.S. 160A-194 authorizes the city to regulate businesses;

Whereas, a tow truck operator is a business subject to regulation pursuant to G.S. 160A-194 in terms of requiring such operator to inform the police department where the towed vehicle is stored;

Whereas, council finds that some owners or occupants of private real property request tow truck operators to remove vehicles from their property because the vehicle is allegedly illegally parked;

Whereas, persons who own or operate towed vehicles often call the city police department searching for the location of their vehicles or to report their vehicles as being stolen;

Whereas, persons whose vehicles have been towed from private property frequently in good faith report such vehicles as being stolen when they were towed without their knowledge;

Whereas, requiring the tow truck operator to notify the City of the location of the vehicle allows the police department to advise the owner or operator of the vehicle to contact the tow truck operator who removed the vehicle, if the owner or operator of the vehicle contacts the police department about the location of the vehicle;

Whereas, the General Assembly has passed other laws impacting cities authority to regulate tows on private property such as G.S. 20-219.2;

Whereas, G.S. 20-219.2 expressly provides that it shall not be interpreted to preempt the authority of any city to enact ordinances regulating towing from private lots, as authorized by general law;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DURHAM:

Section 1. Article IV, Chapter 50 of the Durham City Code captioned “Tow Truck and Vehicle Storage Operations” is hereby amended by deleting the **definition of “Tow Truck Operator”** found in Section 50-385 and adding the following terms to this same section:

“Tow truck operator means any person that provides the service of towing vehicles for

compensation.

Vehicle means motor vehicle as defined in G.S. 20-4.01(23), as amended from time to time.”

Section 2. Article IV, Chapter 50 of the Durham City Code captioned “Tow Truck and Vehicle Storage Operations” is hereby amended by deleting Sections 50-390 and 50-391 and replacing those sections with the following:

“Section 50-390. Reporting of towed vehicles.

- a. Every tow truck operator that removes a private vehicle at the request of any person, other than a law enforcement officer on duty, shall within 30 minutes after the vehicle is removed from private property, report to the Police Department: that the vehicle was towed, its storage location, together with a description of the vehicle (including the make, model, registration plate number and vehicle identification number), the reason for having towed the vehicle, the name of the individual who requested the tow, and any other information related to the tow that is deemed pertinent by the designee of the chief of police. The report shall be made by a method of communication determined by the chief of police.
- b. Every tow truck operator engaging in the business of storing vehicles that have been towed from the public streets or highways, or from private property, shall, on or before 4:30 p.m. on Wednesday of each week, deliver to the police department a list, including make, model, year, registration plate number and vehicle identification number, of all vehicles then in the possession of such tow truck operator that have been unclaimed by the registered owner, or his or her agent, for a period exceeding 48 hours.

Sec. 50-391. - Nonconsensual tow price regulation.

- a. A tow truck operator shall not charge the owner of any vehicle towed without the consent of the owner an amount for towing and storage fees in excess of those fees prescribed in the schedule of nonconsensual towing fees adopted by the city council. This limitation on towing and storage fees applies to any tow performed without the prior consent or authorization of the owner or operator of the vehicle regardless of the reason for the lack of consent. Nonconsensual tows include situations where the owner or operator is unable to consent such as in cases of: a severe accident, or a vehicle is towed for being allegedly illegally parked, towed from city streets, or other property as a result of the order of a public official. Each tow truck operator shall post in a conspicuous place on the business premises and in any tow truck the permitted tow charges.
- b. The towing and storage fees shall be payable by cash, debit card or credit card at no extra cost to the vehicle owner or operator.
- c. The tow truck operator summoned to tow away any vehicle in a nonconsensual tow shall not tow the vehicle away and shall release the vehicle for a charge set forth in the schedule of nonconsensual towing fees, when the owner or operator does the following: returns prior to the tow truck having left the location to which summoned and agrees to immediately move the vehicle.
- d. The tow truck operator shall permit the owner of a towed vehicle to remove personal

property from the vehicle or any owner to retrieve personal property from the vehicle, in the custody of the tow truck operator without charge. However, when an owner is seeking to retrieve property from vehicle after the tow truck operator's regular business hours, then schedule of nonconsensual towing fees apply.

- e. A vehicle removed from private property will immediately be taken to a destination for storage. Such vehicle shall not be dropped off at a temporary location for any reason.
- f. A tow truck operator on the city's rotation wrecker request list is registered with the Communication Center and dispatched to incidents requiring towing services. Such tow truck operator shall pay a dispatch fee for each vehicle towed as set by council. Such fee allows city to recover administrative costs associated with dispatching tow truck operators. "

Section 3. This ordinance shall be in full force and effect from the date of passage.